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2d Session

HOUSE OF REPRESENTATIVES

REPORT
No. 97-958

CARIBBEAN BASIN ECONOMIC RECOVERY ACT

DECEMBER 10, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI , from the committee on Ways and Means, submitted the following

REPORT

Together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 7397]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways Means to whom was referred the bill (H.R. 7397) to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out paragraph (6) of section 102(b) of the bill and insert the following:

> (6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens.

In section 103(c)(1)(B) of the bill strike out "meat" in clause (ii) and insert "beef", and insert "beef" before "products" in clause (iii).

In section 104(c) of the bill strike out "and" after "Puerto Rico" the first time it appears therein.

In lieu of the text for section 274(h)(5)(A) of the Internal Revenue Code of 1954 (as proposed to be added by section 202(a) of the bill) insert the following:

> "(A) IN GENERAL.—For purposes of this subsection, the term 'North American area' includes, with respect to any

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convention, seminar, or similar meeting, any beneficiary country if (as of the time such meeting begins)—

"(i) there is in effect a bilateral or multilateral agreement between such country and the United States providing for the exchange of information between the United States and such country, and

"(ii) there is not in effect a finding by the Secretary that the tax laws of such country discriminate against conventions held in the United States.

At the end of paragraph (5) of section 274(h) of the Internal Revenue Code of 1954 (as proposed to be added by section 202(a) of the bill), insert the following:

"(E) FINDINGS PUBLISHED IN THE FEDERAL REGISTER.—Any finding by the Secretary under subparagraph (A)(ii) (and any termination thereof) shall be published in the Federal Register."

BACKGROUND AND PURPOSE

On February 24, 1982, President Reagan outlined before the Organization of American States a major new program for economic cooperation for the Caribbean Basin. On March 17, he submitted this plan to the Congress as the Caribbean Basin Economic Recovery Act. H.R. 5900 was introduced by the House Majority and Minority Leaders with several cosponsors on March 18.

The United States developed this program for responding to the economic crisis in the Caribbean in close consultation with governments and private sectors of potential recipients and other donor countries. In July 1981, Secretary of State Haig and the U.S. Trade Representative, Ambassador William E. Brock, met in Nassau with the Foreign Ministers of Canada, Mexico, and Venezuela. They agreed to sponsor a multilateral action program for the region within which each country would develop its own program. Venezuela and Mexico are making a significant contribution to the Basin, particularly through their joint oil facility. Canada announced major increases in its foreign assistance to the area and already provides duty-free entry on 98 percent of its imports from the Caribbean. Colombia, which more recently joined as a donor country, intends to increase its financial contribution to the Basin and to develop means of providing preferential access to its market.

The Caribbean Basin countries have been seriously affected by the escalating cost of imported oil and declining prices for their major exports (e.g., sugar, coffee, bauxite). This has exacerbated their deep-rooted structural problems and caused serious inflation, high unemployment, declining gross domestic product growth, enormous balance-of-payments deficits, and a pressing liquidity crisis. This economic crisis threatens political and social stability throughout the region and creates conditions which Cuba and others seek to exploit through terrorism and subversion.

The proposed U.S. Caribbean Basin Initiative (CBI) consists of integrated, mutually reinforcing measures in the fields of trade, investment, and financial asistance to address both emergency prob-

lems and long-range economic development. The program is designed to foster self-reliance and its success rests primarily on implementation through local and foreign private sector initiative.

The centerpiece of the U.S. program is the offer of one-way free trade under Title I of the legislation, providing the most favorable and secure long-term access possible to the U.S. market. Currently, about 27 percent of the exports from countries in the region enter the United States duty-free under the Generalized System of Preferences (GSP) or under permanent MFN duty-free treatment; about 80 percent of Caribbean exports currently enter the United States duty-free if petroleum is excluded. Nevertheless, many of the duties which remain in place are in sectors of primary export potential for Caribbean countries. Existing duties also limit export expansion into many nontraditional products. Duty-free entry under GSP is also subject to dollar and percentage limits or may be removed under annual review procedures.

H.R. 7397, as reported by the Committee on Ways and Means, would provide duty-free access to the U.S. market for an additional $800 million to $1 billion of Caribbean exports, based on 1981 trade, or about 10.5 percent of their total exports to the United States. While duty-free access of this amount provides significant potential stimulus for the Caribbean economies, it does not constitute a substantial increase in total duty-free imports into the U.S. market. All imports from the Caribbean constitute less than 4 percent of total U.S. imports.

Further, the United States enjoys a trade surplus with the Caribbean Basin overall of $1.9 billion last year, excluding petroleum and petroleum products, and a surplus with all but four of the 28 potential program beneficiary countries or territories. Stability and economic development of the region, including through freer long-term access to the U.S. market, are essential to maintenance and expansion of these U.S. export markets.

Summary of the Caribbean Basin Economic Recovery Act, H.R. 7397, as Amended

H.R. 7397, as amended, consists of two titles containing the trade and tax provisions of the integrated approach to Caribbean development known as the Caribbean Basin Initiative.

Title I of H.R. 7397 contains six sections to provide the authorities necessary for the President to establish a one-way, free-trade area with the countries of the Caribbean Basin.

The principal provisions of Title I can be summarized as follows:

Section 101 (Authority to grant duty-free treatment)

Section 101 provides the basic authority for the President to establish one-way, duty-free treatment on imports of eligible articles from Caribbean Basin beneficiary countries.

Section 102 (Beneficiary country)

Section 102 contains the list of 28 potential Caribbean Basin beneficiary countries and territories and sets forth the procedures and mandatory conditions and discretionary considerations to be fol-

lowed by the President in designation and termination of their eligibility for benefits under the Act.

The President may not designate a country if it: (1) is a Communist country; (2) fails to meet certain criteria regarding expropriation of U.S. property; (3) fails to recognize arbitral awards to U.S. citizens; (4) affords "reverse" tariff preferences to other developed countries; (5) engages in piracy of copyrighted broadcast material; or (6) has not entered into an extradition treaty with the United States. The first three conditions may be waived for reasons of national economic or security interests. Section 103 also specifies certain discretionary criteria the President must take into account prior to designation.

Section 103 (Eligible articles)

Section 103 provides for duty-free treatment on any article imported from Caribbean Basin beneficiary countries unless such treatment is otherwise prohibited or limited. The section sets forth the rule-of-origin requirements for duty-free entry. First, the product must be imported directly from a beneficiary country; second, the article must consist of at least 35 percent value-added in the Caribbean, to which 15 percent of the total value from U.S.-made components may be applied; and third, any product including foreign components must be substantially transformed into a "new and different article of commerce" in one or more Caribbean beneficiary countries. Products not qualifying under these three rules will be dutiable.

Section 103 exempts textiles and apparel; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel; and petroleum and petroleum products from duty-free treatment, and establishes limitations on duty-free entry of sugar. It requires submission of a food production plan as a condition for duty-free entry of sugar and beef. Section 103 also includes import relief and emergency relief provisions to safeguard domestic industries.

Section 104 (Measures for Puerto Rico and United States insular possessions)

Section 104 contains special measures, in addition to provisions elsewhere in the bill, to reduce any potential detrimental effect that the CBI might have on Puerto Rico and the U.S. insular possessions (Virgin Islands, Guam, American Samoa). These measures include an increase in maximum foreign content permissible for duty-free entry of products from the insular possessions, an increase in the duty-free allowance on alcoholic beverages for returning U.S. residents from the insular possessions, consideration of compensatory measures if rum excise tax revenues to Puerto Rico or the Virgin Islands decline, treatment of producers in insular possessions as domestic industry for purposes of import relief, and exemption of effluent discharge attributable to the manufacture of rum in the Virgin Islands from provisions of the Federal Water Pollution Control Act.

Section 105 (ITC reports on impact of this act)

Section 105 requires annual reports by the U.S. International Trade Commission on the effects of H.R. 7397 on the U.S. economy

generally and on particular industries producing like or directly competitive articles. The first such study will assess the first two yeas of effectiveness of the Act, to be followed by yearly reports thereafter.

Section 106 (Effective date of title and termination of duty-free treatment)

Section 106 provides an effective date for Title I of date of enactment of the Act. It authorizes duty-free treatment for a 12-year period terminating on September 30, 1994.

Title II of H.R. 7397 contains two sections which can be summarized as follows:

Section 201 (Payment of excise taxes collected on rum to Puerto Rico and the United States Virgin Islands)

Under present law, the United imposes excise taxes of $10.50 per proof gallon on all distilled spirits, including rum, manufactured in or brought into the United States. The excise taxes paid on rum made in Puerto Rico and the U.S. Virgin Islands and brought into the United States are transferred to the Treasury of the island where the rum was made. The bill requires that all excise taxes collected on other rum brought into the United States (whether or not from Caribbean countries) be transferred to the Treasuries of Puerto Rico and the Virgin Islands, under a formula to be prescribed by the Secretary of the Treasury. This provision will apply to rum imported into the United States after December 31, 1982.

Section 202 (Treatment of Caribbean conventions, etc.)

The Internal Revenue Code generally disallows deductions for business expenses incurred while attending a convention held outside the North American area (the United States, the U.S. possessions, the Trust Territory of the Pacific Islands, Canada, and Mexico), unless the taxpayer can show that it is as reasonable to hold the convention outside the North American area as within it. The income tax treaty with Jamaica allows such deductions for attending conventions held in Jamaica. The bill allows business expense deductions for attending conventions held in a Caribbean country that is a "beneficiary country" as defined in section 102 of the bill (with the addition of Bermuda), that has in effect an agreement with the United States to provide for the exchange of tax information, and that does not discriminate against U.S. convention sites in its tax law. This provision will apply to conventions beginning after December 31, 1982, in countries in which such agreements are in effect.

Committee Action

H.R. 5900 was introduced on March 18, 1982, in response to a Message to the Congress from President Reagan transmitting the draft bill on March 17.

The Subcommittee on Trade of the Committee on Ways and Means held hearings on both Title I (Duty-Free Treatment) and Title III (Tax Provisions) of the bill on March 17, 23, 24, and 25. Testimony was received from Administration witnesses on March

17, led by U.S. Trade Representative Ambassador William E. Brock, and including representatives from the Departments of State, Agriculture, Interior, Commerce, and Treasury and the U.S. Customs Service. The Chairman of the International Trade Commission also testified. On the following days the Subcommittee heard testimony and subsequently received written statements for the record from Members of Congress, representatives of the Virgin Islands and Puerto Rican governments, and from numerous trade associations and business groups, labor unions, and individual companies. Most witnesses supported the Caribbean Basin Initiative as a concept but many proposed various amendments to the bill to supplement the provisions or to address specific issues.

On May 5, the Subcommittee ordered Title I of H.R. 5900 favorably reported to the full Committee on Ways and Means by voice vote with nine amendments.

On December 9, the Committee on Ways and Means considered in markup session an amendment to H.R. 5900 incorporating Title I, as reported by the Subcommittee with additional modifications, and tax provisions as Title II. The Committee reported the substitute bill, H.R. 7397, favorably with four amendments by a rollcall vote of 27 yeas, 6 noes.

Section-by-Section Analysis and Justification

Title I—Duty-Free Treatment

Section 101. Authority to grant duty-free treatment

Section 101 authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of Title I. This section provides the basic authority for the President to grant duty-free treatment to eligible articles which meet the requirements set forth in section 103 from Caribbean Basin countries that are designated in accordance with the provisions of section 102. Exercise of this authority will allow the United States to establish a one-way free-trade arrangement with countries in the Caribbean Basin. The Administration has stated its intention to seek a waiver of U.S. international obligations under the General Agreement on Tariffs and Trade (GATT) prior to implementing this arrangement.

Caribbean Basin countries currently receive preferential duty-free access to the U.S. market under the Generalized System of Preferences (GSP) authorized until January 3, 1985 by Title V of the Trade Act of 1974. However, GSP duty-free treatment is limited to designated articles and is subject to certain conditions and limits as described below.

Section 102. Beneficiary country

Section 102 contains the list of potential Caribbean Basin beneficiary countries and territories and sets forth the procedures and criteria to be followed by the President in designation and termination of their eligibility for benefits under Titles I and II of the Caribbean Basin Economic Recovery Act.

Section 102(a) defines "beneficiary country" as a country listed in section 102(b) with respect to which there is a Presidential procla-

mation in effect designating it as a beneficiary country. The term "TSUS" refers to Tariff Schedules of the United States.

Before the President designates any beneficiary country, he must notify the House and Senate of his intention to do so, together with the considerations entering into his decision. The President may terminate designation of a country as a beneficiary country by proclamation at any time, but he cannot do so unless he notifies the Congress and the country concerned at least 60 days in advance of his intention and the considerations entering into the decision.

Section 102(e) requires the President to withdraw or suspend designation of any country as a beneficiary country if he determines as a result of changed circumstances that the country would be barred from designation under section 102(b). The withdrawal or suspension must be preceded by the 60-day advance notice to the Congress and to the country concerned as required under section 102(a).

The 60-day minimum advance notice requirement is included in order to give the affected beneficiary country an opportunity to correct any condition or situation which has led to the decision to terminate and to minimize trade disruption by giving exporters and importers an opportunity to make adjustments in contracts. These procedures are identical to those currently applicable to designation and termination of country eligibility for GSP.

Only the countries, territories, or successor entities listed in section 102(b) can be considered by the President in designating beneficiary countries under this Act. All the potential CBI beneficiary countries, except Cuba, are currently designated beneficiaries of duty-free treatment on eligible articles under GSP; articles not eligible for GSP receive column 1 most-favored-nation (MFN) tariff treatment. Imports from Cuba are prohibited entry into the United States under the embargo imposed under the Foreign Assistance Act on February 3, 1962.

Mandatory conditions for designation

Section 102(b) sets forth certain specific conditions, the existence of any one of which disqualifies a country for designation, subject to the waiver authority described below. The President shall not designate any country in the list contained in subsection (b) as a beneficiary country under this Act if that country:

1. Is a Communist country. Under existing law, a developing country is not eligible for GSP if it is a Communist country unless its products receive most-favored-nation treatment, it is a GATT Contracting Party and an International Monetary Fund member, and it is not dominated or controlled by international communism.

The term "Communist country" is not subject to any accepted definition or guidelines under existing statute. The Committee understands that the Administration would be guided in its designation of countries under this provision as beneficiaries for the CBI by factors such as the following: (1) whether the country's government is totalitarian and dominated by the Communist party, or whether there is sufficient scope for independent action by private institutions not controlled by the government or such a party; and (2) the degree to which the country is controlled by international

communism (i.e., by the Soviet Union) and the character of relations with the United States. Under these criteria, Cuba is currently regarded by the Administration as a "Communist country" and would not be designated for CBI eligibility.

2. Has nationalized, expropriated, or otherwise seized ownership or control of U.S. property (at least 50 percent ownership) or taken measures having the same effect (e.g., contract repudiation or nullification, tax imposition or enforcement), unless the President determines, and promptly furnishes a copy of the determination to the House and the Senate, that (a) prompt, adequate, and effective compensation has been made or is being made; (b) bona fide negotiations to provide such compensation are in progress or the country is otherwise taking steps to discharge its obligations under international law; or (c) a dispute over compensation has been submitted to arbitration. An identical provision applies with respect to GPS eligibility.

3. Fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens. An identical provision applies to GSP eligibility.

4. Affords preferential treatment to products of a developed country other than the United States, which has or is likely to have a significant adverse effect on U.S. commerce, unless the President reports to the Congress assurances received satisfactory to him that such treatment will be eliminated or that action will be taken to assure no significant adverse effect. A similar condition applies to eligibility for GSP.

This provision on "reverse" preferences is consistent with the purpose of the legislation to increase the opportunities for exports from the Caribbean to the United States rather than to gain preferential U.S. access to markets in the Caribbean. While the United States would welcome other developed countries granting preferential treatment to Caribbean Basin countries, it would not want to see them seek "reverse" preferences in Caribbean markets in exchange. The Committee also believes this provision is essential to ensure that Caribbean countries do not provide discriminatory preferential advantages for other countries in their markets at the same time the United States grants unlimited duty-free access for their exports.

5. Engages, through government-owned entities, in the broadcast of U.S. copyrighted material, including films or television material, without express consent of the owners.

This provision is intended to ensure that the rights of U.S. copyright owners are protected against the increasingly frequent practice of foreign governments intercepting satellite transmissions or otherwise broadcasting copyrighted materials without the consent of such owners. This practice jeopardizes the substantial foreign revenues received by such copyright owners, and, to the extent it is practiced by foreign government broadcasting companies, it should disqualify such country from the benefits of duty-free concessions. While international agreements may apply to this practice, they are apparently indaequate to remedy the problem.

6. Is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of U.S. citizens.

This provision seeks to deal with a serious problem concerning the ability of U.S. officials to extradite citizens who may be residing in foreign countries where no extradition agreement exists. The Committee believes it is reasonable to make CBI benefits contingent upon the existence of such an agreement.

Section 102(b) authorizes the President to waive any of the first three conditions (Communist country, nationalization or expropriation, and arbitral awards), but not the condition on "reverse" preferences in the absence of assurances, if he determines that designation of any country as a beneficiary country under this Act will be in the national economic or security interest of the United States. The President must report this determination and the reasons therefor to the Congress.

A similar provision applies under present law with respect to designation of beneficiary countries for GSP, except that the waiver can only be based on national economic interests and does not apply to Communist countries unless they meet certain specific criteria. The Administration believes these distinctions are warranted given the national security nature of the CBI program.

Discretionary considerations

Section 102(c) sets forth factors the President must take into account in determining whether to designate any country a beneficiary country under this Act. Unlike the conditions in section 102(b), these factors are not mandatory, and no one is controlling. However, they are relevant considerations to ensure that the designation of a country will further the intent of the Act to promote the development of the economies in the Caribbean Basin. The first three factors must also be considered for GSP designation.

The President is required to take into account in designating any beneficiary country for CBI benefits:

1. An expressed desire by the country to be designated. The Administration intends to determine through discussions with each individual country whether it wishes to be designated a CBI beneficiary, rather than requiring a formal written request.
2. Economic conditions in the country, its living standards, and any other appropriate economic factors.
3. The extent to which the country has assured the United States it will provide equitable and reasonable access to its markets and basic commodity resources.
4. The degree to which the country follows accepted international trading rules provided under the GATT and applicable trade agreements concluded in the Tokyo Round of Multilateral Trade Negotiations.
5. The degree to which the country uses export subsidies or imposes export performance or local content requirements which distort international trade.
6. The degree to which trade policies of the country as related to other CBI beneficiaries are contributing to revitalization of the region.
7. The degree to which the country is undertaking self-help measures to promote its own economic development.

8. The degree to which workers in the country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively.

9. The extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent.

This discretionary criteria complements the mandatory condition under section 102(b) regarding piracy of broadcasts by government-owned entities. It would require the President to consider the effectiveness of a particular country's laws in preventing private individuals not connected with government-owned entities from engaging in such piracy.

10. The extent the country is prepared to cooperate with the United States in administering the provisions of Title I. This provision is included with a view in particular to obtaining the full cooperation of beneficiary countries in providing the documentation necessary to administer the rules-of-origin requirements under section 103.

Section 102(d) amends general headnote 3(a) of the TSUS with respect to the duty-free treatment of products from the U.S. insular possessions. This amendment entitles articles imported from insular possessions to no less favorable duty treatment than that accorded to eligible articles from other designated Caribbean Basin countries. The purpose of the provision is to maintain the competitive position of the insular possessions relative to the Caribbean Basin. A similar provision applies with respect to articles imported under the GSP.

Section 103. Eligible articles

Section 103 sets forth the circumstances under which articles would be eligible for duty-free treatment under Title I, including rule-of-origin requirements, the statutory exemption of certain specific products, conditions and limits on duty-free treatment for sugar, and import relief and emergency relief provisions to safeguard domestic industries. Unless excluded from eligibility under these provisions, duty-free treatment provided under Title I shall apply to any article imported from CBI beneficiary countries.

Rule-of-origin requirements

Section 103 provides that an article cannot be eligible for duty-free treatment unless its country of origin is a designated CBI beneficiary country. Eligibility thus depends upon the "rules of origin" set forth in section 103(a), as administered by the U.S. Customs Service. These rules generally provide for the determination of the country of origin in cases in which the goods are not wholly produced in one country. During the Subcommittee's hearings, the Customs Service testified that the enforcement of the origin criteria under section 103(a) would necessarily involve establishing controls similar to those used for GSP, which strictly limit the origin of products from non-beneficiary countries.[1]

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[1] The Customs Service also stated, and the Committee agrees, that suitable documentary controls paralleling those used for GSP will be necessary. For example, under present law, a claim

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To be eligible for duty-free treatment under the CBI, an article must meet three basic tests under the rule-of-origin requirements: (1) direct importation; (2) 35 percent minimum local content; and (3) wholly the product of the country or "substantially transformed" into a new or different article. Section 103(a) also specifically prohibits strictly "pass-through" operations from qualifying for duty-free entry.

Paragraph (1) section 103(a) prescribes both a direct import requirement and a value-added test to determine the country of origin. First, subparagraph (A) provides that an article is eligible for duty-free treatment if it is imported directly from a beneficiary country into the customs territory of the United States. This provision is identical to the direct importation requirement under present law for duty-free treatment under the Generalized System of Preferences.

Second, subparagraph (B) requires that a minimum of 35 percent of the appraised value of the imported article consist of the cost or value of materials produced in one or more beneficiary countries plus the direct costs of processing operations performed in the beneficiary country or countries. Puerto Rico and the Virgin Islands will be treated as beneficiary countries for purposes of determining the minimum local content. Inclusion of Puerto Rican and Virgin Island inputs is intended to encourage the use of their products.

Of the total value of the article which may consist of materials or components produced in the United States, up to 15 percent may be applied toward meeting the 35 percent maximum domestic content requirement.

These provisions seek to address concerns raised by labor about potential "pass-through" operations and "runaway plants" as a result of the 25 percent minimum domestic content requirement proposed in H.R. 5900. Requiring a minimum local content of 35 percent conforms eligibility for duty-free entry under the CBI to the requirement for duty-free treatment under GSP. It also reduces the potential for "pass-through" operations by reducing potential third country input from 75 percent to 65 percent. At the same time, it would be easier for Caribbean countries to meet a local content test of 20 percent if up to 15 percent U.S. input is included. Further, inclusion of up to 15 percent U.S. input as part of the 35 percent minimum increases the incentive for U.S. exports, which could comprise up to 80 percent of the total value of the product. By reducing the incentive for "runaway plants," more export-related jobs are created and preserved in the United States.

Section 103(a) expressly defines rules of origin and conforms them to the GSP system as further means to prevent the creation of mere "pass-through" operations involving little value-added in the beneficiary country. Paragraph (1) requires that the article be the "growth, product, or manufacture of a beneficiary country" in order to ensure that such articles originate in the beneficiary country. This language was not included in the GSP legislation, but was

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for GSP treatment must be substantiated by the filing of a Certificate of Origin, Form A, certified by the designated governmental authority in the country from which the merchandise is imported.

understood in this manner and has been consistently so interpreted.

Paragraph (2) requires the Secretary of the Treasury to prescribe regulations as necessary to carry out the rule-of-origin requirements. The regulations must provide that articles eligible for duty-free treatment "must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country." The regulations shall prohibit eligibility for duty-free treatment if the product to be imported merely undergoes certain minor operations, that is, a simple combining or packaging operation or mere dilution with water or mere dilution with another substance which does not materially alter the article.

The object of these provisions is to prevent pass-through operations in which the work performed is of little economic benefit to the Caribbean and constitutes accordance of U.S. duties. Examples of activities that the Customs Service would consider as insufficient include the addition of batteries to devices; simply fitting together a small number of components by bolting, glueing, soldering, etc.; merely repacking or packaging together components; merely diluting with water, such as reconstituting orange juice concentrate; merely diluting chemicals with inert ingredients to bring them to standard degrees of strength; or the addition of substances such as anticaking agents, preservatives, wetting agents, etc. The provisions would not preclude meaningful assembly operations utilizing foreign components, provided the assembly is of significance to the local economy, meets the 35 percent local content rules, and results in a new and different article.

Paragraph (3) defines the types of direct costs of processing operations performed in beneficiary countries which may be included for purposes of meeting the minimum 35 percent local content requirement. The amendment states that direct costs include, but are not limited to, all actual labor costs involved in producing the imported article, including on-the-job training, fringe benefits, and certain other costs; and dies, molds, tooling, and depreciation on machinery and equipment allocable to the specific merchandise. Costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as profit and general expenses of doing business, cannot be considered direct costs of processing operations. This provision conforms to current regulatory language used in administering GSP.

Product exclusions from duty-free treatment

Section 103(b) specifically exempts certain products from duty-free treatment under Title I.

Paragraph (1) prohibits application of duty-free treatment to textile and apparel articles which are subject to textile agreements. For purposes of this Act only, the phrase "subject to textile agreements" as used in the exemption of textiles and apparel means textiles and apparel which are covered by the Arrangement Regarding International Trade in Textiles, commonly referred to as the Multifiber Arrangement (MFA). All textile and apparel articles subject to that Arrangement on the date of enactment of H.R. 7397 will be

excluded from its duty-free treatment for the entire period that the Act is in effect.

However, the Administration has stated its intention to allow more favorable quantitative access for products, on a case-by-case basis within the context of overall Administration textile policy implementing the MFA. The United States currently has bilateral arrangements setting import levels on certain textile and apparel articles with the Dominican Republic, Haiti, and Costa Rica.

Paragraph (2) of section 103(b) excludes footwear, handbags, luggage, flat goods (such as wallets, change purses, key cases, and eyeglass cases), work gloves, and leather wearing apparel not designated as eligible articles for GSP at the time of enactment of Title I from duty-free treatment under the CBI. This exclusion covers these articles whether made of leather or of other materials. Based upon the present GSP eligibility list, the exemption would cover the following items in the Tariff Schedules of the United States: TSUS items 700.05–700.27, 700.29–700.53, 700.56–700.95 (nonrubber and footwear except zoris); 705.35, 705.85, 705.86 (certain leather and rubber or plastic gloves); 706.05–706.16, 706.21–706.32, 706.34, 706.36, 706.38, 706.41, 706.43, 706.55, 706.62 (luggage, handbags, and flat goods); and 791.76 (certain leather wearing apparel).

Footwear is excluded from GSP by statute. The other articles covered by the exemption have also been excluded from GSP by administrative action. Committee Members supporting the amendment expressed the following views as warranting the exclusion of these products from duty-free treatment under the CBI: First, while Caribbean Basin imports constitute a very small portion of U.S. market penetration at the present time, growth of some of these products has been substantial from certain Caribbean countries in the past two years and is likely to increase further in a very short period of time with the incentive of unlimited duty-free access to the U.S. market. Second, these industries, which have already been heavily impacted by increased imports, would not survive if faced with duty-free import competition from the Caribbean Basin. The relatively few jobs remaining in these industries should not be sacrificed, as they are located primarily in small towns or counties with very little manufacturing, high unemployment, and little likelihood of alternative employment opportunities in the foreseeable future. Third, adjustment measures available to these domestic industries and their workers through the Appalachian, Economic Development Administration, and trade adjustment assistance programs have been largely eliminated.

Section 103(b) also excludes petroleum and petroleum products duty-free treatment. This exemption covers both crude oil and refined products provided for in Part 10 of Schedule 4 of the TSUS.

The Committee believes that exclusion of petroleum and petroleum products from duty-free treatment under the CBI is necessary in order to avoid any interference with overall oil import policy, particularly since the United States is seeking to reduce dependence on foreign oil. Moreover, duty-free treatment would not benefit the Caribbean Basin countries, since refining operations by major oil companies with idle capacity already exist and since such operations are not labor intensive. In fact, the only beneficiaries of duty/free status would be certain major U.S. companies, who would

perhaps gain a slight competitive advantage over other major oil companies refining products elsewhere. Duty-free treatment would not affect demand for such products, which is determined by other factors.

The exclusion of petroleum prevents a potentially significant pass-through problem, since it would be possible to mix the 200,000 barrels of Caribbean crude produced daily with a larger amount of crude oil from outside the region, refines it in the Caribbean, and still meet the 35 percent value-added requirement of section 103(a). This could result in up to one million barrels a day of duty-free shipments, according to one estimate, such an amount would definitely affect U.S. overall oil import policy. The Committee believes that it is more reasonable to subject all oil imports to the same level of duty.

Food production plan

Section 103(c) requires the submission by countries designated as CBI beneficiaries of a "Stable Food Production Plan" within three months of designation for evaluation by the President. This plan must consist of measures and proposals designed to ensure that the present level of food production and nutrition will not be adversely affected by changes in land use and landownership as a result of increased production of sugar and beef products in response to duty-free treatment under the CBI. Facts and proposed action which the plan must specify include:

1. current levels of food production and nutritional health of the population;
2. current levels of production and export of sugar and beef;
3. expected increases in production and export of sugar and beef as a result of duty-free treatment under Title I;
4. measures to be taken to ensure that expanded production of these products because of duty-free access will not occur at the expense of staple food production; and
5. proposals for monitoring the impact of duty-free treatment on staple food production, land use, and land ownership.

Section 103(c) also provides that if no plan is submitted, or if the President determines that the plan is inadequate or that the plan is not being properly implemented, the President is required to notify the country involved and offer to enter into consultations aimed at remedial action. If the country enters into consultation within a reasonable time and undertakes to formulate remedial action in good faith, then the President must withhold suspension of duty-free treatment of sugar and beef on condition that the remedial action agreed upon be appropriately implemented. The President shall terminate any suspension of duty-free treatment if he determines the country has taken appropriate remedial action.

The President must monitor the operation of the plans and submit a report biannually to the Congress by March 15 that specifies the extent to which each plan and any remedial actions have been implemented and evaluates the results.

Section 103(c) is intended to assist beneficiary countries in maintaining basic food production. The combined food import bill of the Caribbean Basin countries now exceeds $60 million, and recent hearings before the House Committee on Agriculture indicated

that food production and nutritional levels have declined substantially. The Committee believes that implementation of such a plan will assist these countries in maintaining and eventually improving food self-sufficiency without imposing burdensome requirements they cannot meet. The Committee is concerned about the possibility that expanded production of so-called "cash crops" such as sugar and beef might displace basic food production through no fault of the governments in the region, and the preparation of a plan will help to prevent any adverse effects.

The Committee recognizes that the agricultural capabilities of many Caribbean countries are limited by climate, geographic, and other factors. Therefore, the President must have discretion under this provision to determine what constitutes an adequate plan in the context of each particular country's special characteristics. Moreover, the Committee assumes that the Department of State and other U.S. Government agencies will assist each country in the preparation and implementation of such a plan.

Limitation on duty-free treatment for sugar

Section 103(d) provides special rules limiting the eligibility of sugar for duty-free treatment. These rules are intended to assure that duty-free imports from CBI beneficiary countries will not interfere with or impair the price support program for sugar mandated by Congress.

The limitations on duty-free treatment under section 103(d) apply whenever there is in effect a proclamation issued by the President pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to protect a price support program. During such periods, all beneficiary countries except the Domincan Republic, Guatemala, and Panama are subject to the terms of the Generalized System of Preferences, which allows duty-free access for sugar up to the so-called "competitive need" limits ($51 million in 1981). Countries exceeding this limit in a given year would lose duty-free status the following year and would not be eligible for such status until the year after their total exports no longer exceed competitive need limits. In lieu of receiving GSP treatment, these countries may request absolute quotas, and the President may then establish such quotas at whatever levels he deems appropriate. The three remaining countries—the Dominican Republic, Guatemala, and Panama—are limited by absolute quotas, with such quantities receiving duty-free treatment. These quotas are set at approximately 110 percent of such countries' recent exports to the United States. These countries have all exceeded the competitive need limits under present GSP law, and would not receive duty-free benefits for any portion of their sugar imports absent the provisions of section 103(d).

Section 103(d) also allows the President considerable discretion to adjust the limits described above. He may, upon recommendation of the Secretary of Agriculture, suspend or adjust upward the quantitative limits and GSP limits for beneficiary countries, if he finds that such adjustment will not interfere with the price support program and is appropriate in light of market conditions. He may also suspend duty-free treatment for all or part of the quantity of sugar for which quotas have been established, if he determines, upon recommendation of the Secretary of Agriculture, that such

action is necessary to protect the price support program. With respect to those countries that remain on GSP and do not elect absolute quotas, the President may, in accordance with existing GSP law, withdraw, suspend, or limit the application of duty-free treatment.

Section 103(d) also provides that the quantitative limits established therein shall apply only to the extent that they are more restrictive than quotas imposed pursuant to other provisions of law. This ensures that more restrictive quota programs, such as that currently in effect for sugar by Presidential proclamation, would take precedence over the amounts set forth in the bill. However, duty-free treatment would still be accorded to such imports.

The purpose of section 103(d) is to balance the need to prevent interference with the domestic price support program against the need to assure Caribbean Basin countries preferential access to U.S. sugar markets. Although the overall purpose of the legislation is not to promote further expansion of sugar production in the region, it is important to recognize the role that sugar exports can play in financing economic recovery and diversification in the Caribbean. Sugar is a vital source of foreign exchange for several Caribbean countries. It also provides significant employment. Without some degree of certainty as to their exports, these countries will continue to suffer from the excessive fluctuations in world sugar markets. Section 103(d) is thus meant to guarantee beneficiary countries a reliable but limited market for their sugar at preferential prices. At the same time, it assures that such imports will not cause harm to domestic growers.

Sugar imports are normally subject to the MFN rate of duty, which is 2.8 cents per pound. The President has authority to lower this rate—on an MFN basis—to 0.625 cents per pound. However, under the GSP program sugar imports may be granted duty-free status unless a particular country has exceeded the competitive need limits. At present, all potential beneficiary countries except the Dominican Republic, Guatemala, and Panama are receiving GSP treatment. Under current GSP law, the President may withdraw, limit, or suspend the application of duty-free treatment and reestablish normal rates of duty. Section 103(d) would maintain GSP criteria with respect to all countries except the three mentioned, which will be exempt from duties within the absolute quotas described above.

The President also has authority under existing law to impose quotas on sugar imports. On May 5, 1982, the President issued a proclamation imposing overall quotas on sugar imports from all sources and allocating such quotas according to each importing country's historical share of the market. H.R. 7397 does not affect the President's authority to proclaim such quotas.

Import relief provisions

The standard import relief procedures and measures under sections 201–203 of the Trade Act of 1974 would be available to domestic industries with respect to imports entering under the CBI, with certain modifications specified under section 103(e).

Section 103(e) is designed to provide domestic industry and labor the standard avenues for obtaining safeguard measures against in-

jurious imports while providing more secure preferential duty-free access to the U.S. market for imports from CBI beneficiary countries than exists under present law.

Under the import relief procedures, a domestic industry may seek a finding from the International Trade Commission (ITC) that increased imports are a substantial cause of serious injury or threat thereof to the domestic industry producing a like or directly competitive article. The ITC must report its determination to the President within six months with a recommended remedy if the finding is affirmative. In such cases, the President has 60 days to determine whether to provide import relief in the form of tariff increases, tariff-rate quotas, quantitative restrictions, orderly marketing agreements, or a combination of these measures for up to five years, subject to a possible three-year extension. A decision not to grant relief or to provide it in a form or amount different from the ITC's recommendation is subject to possible Congressional override.

Section 103(e) authorizes the President to suspend duty-free treatment provided under Title I on any eligible article and proclaim a rate of duty on that article if such action is proclaimed as import relief or as a national security measure under section 232 of the Trade Expansion Act of 1962. In other words, once duty-free treatment is proclaimed under the CBI on an article, it cannot be removed for the remaining period of Title I unless it is removed as an import relief or national security measure.

The International Trade Commission would be required, in any report to the President on an import relief investigation covering an article subject to Title I duty-free treatment, to state whether its findings and recommendation apply to imports from CBI beneficiary countries.

The authority of the President is in no way limited by the provisions of section 103(e) to impose any form of relief authorized under the Trade Act with respect to all imports of an article, including imports from CBI beneficiary countries. However, the President would have discretion to maintain duty-free treatment on imports from the Caribbean Basin regardless of the ITC's findings, while either denying or granting tariff or tariff-quota relief on imports of the article from other countries. Alternatively, the President would have the flexibility to maintain a margin of preference for imports from the Caribbean Basin by establishing an intermediate rate of duty on such imports rather than either restoring the previous MFN rate or imposing a higher rate established as tariff or tariff-rate quota relief on imports from other countries. Similar discretion and flexibility would apply in the case of national security actions. However, duty-free treatment or a single rate of duty must apply uniformly to imports of a particular article from all Caribbean Basin beneficiaries. There provisions would apply only to articles subject to duty-free treatment provided under Title I; imports of articles from CBI beneficiary countries receiving permanent MFN duty-free treatment, as well as imports excluded from CBI duty-free treatment, would continue to be subject solely to the import relief and national security provisions of present law.

The President may treat as an increase in duty for purposes of import relief the suspension of Title I duty-free treatment. The President may suspend CBI duty-free treatment as the *sole* import

relief measure (without imposing relief generally) only if the ITC, in addition to making an affirmative determination, determines in the course of its import relief investigation that the serious injury to a domestic industry substantially caused by imports results from CBI duty-free treatment. These provisions are identical to present law with respect to GSP imports.

Import relief measures or adjustments to imports to protect the national security in effect at the time duty-free treatment is proclaimed under section 101 would continue in effect until modified or terminated. However, the President may terminate or modify existing import relief with respect to imports from CBI beneficiary countries prior to its otherwise scheduled termination or reduction date if he determines such action to be in the national interest after following the procedures in section 203 (h) and (i) of the Trade Act of 1974 which require that he obtain the advice of the ITC, the Secretary of Labor, and the Secretary of Commerce. The effect of termination would be to restore the pre-existing rate of duty, if any, not to apply duty-free treatment under the CBI.

Emergency relief provisions

Section 103(f) establishes a special procedure to protect perishable agricultural products during the pendency of a normal import relief proceeding. This provision is a recognition of the unique nature of agricultural perishables and the possible consequences of duty-free treatment if special procedures are not adopted.

If an import relief petition is filed regarding a "perishable product" and alleging injury from CBI beneficiary countries, the petitioners may also file with the Secretary of Agriculture a request for emergency relief. Within 14 days the Secretary must determine whether there is "reason to believe" a perishable product from a beneficiary country is being imported in such increased quantities as to be a substantial cause of serious injury or threat thereof to the domestic industry producing a like or directly competitive product. The Secretary must then advise the President and recommend emergency relief if warranted, or publish notice and advise the petitioner of his determination not to recommend emergency action. Within 7 days after he receives a recommendation for emergency relief from the Secretary of Agriculture, the President must issue a proclamation withdrawing the duty-free treatment or publish a notice of his determination not to take emergency action.

Emergency relief under this provision is limited to the restoration of normal rates of duty. The President may not proclaim higher rates during the emergency period, nor may he proclaim an intermediate rate. The emergency action ceases to apply on the date that one of four conditions is met:

(a) final import relief is declared;

(b) the President determines not to grant final import relief;

(c) the ITC submits a report to the President containing a negative finding on a request for import relief; or

(d) whenever the President determines that due to changed circumstances such relief is no longer warranted.

Section 103(f) defines "perishable products" according to TSUS items and includes live plants, most fresh or chilled vegetables, fresh mushrooms, most fresh fruit, and fresh cut flowers.

The purpose of section 103(f) is to safeguard against the effects of a sudden influx of agricultural imports from the Caribbean countries. If such imports were to cause sudden injury to domestic producers of perishable goods by depriving them of an opportunity to sell such products, the normal six-month procedures for import relief would not afford a meaningful remedy. By the time relief is obtained, the goods in question would no longer be marketable. This provision would merely restore the tariff treatment which existed prior to the conferral of duty-free entry until a final decision on import relief can be made, thereby assuring some degree of protection for domestic growers against a possible sudden surge of duty-free imports.

Section 103(f) supplements existing import relief law (sections 201–203 of the Trade Act of 1974), which does not provide for emergency relief with respect to perishable goods. However, pursuant to section 22 of the Agricultural Adjustment Act, the President may, upon recommendation of the Secretary of Agriculture, determine that emergency conditions warrant the imposition of fees or duties on agricultural products to protect a price support program pending the outcome of a full investigation. Section 22 contains similar requirements to those in section 103(f), including a requirement that the Secretary of Agriculture determine that there is a "reason to believe" that imports may cause harm.

Section 22 fees

Section 103(g) provides that no proclamation guaranteeing duty-free treatment to beneficiary countries shall affect fees imposed under section 22 of the Agricultural Adjustment Act. Section 22 authorizes the President to impose import fees of up to 50 percent ad valorem if he finds that imports of a particular product are rendering or tending to render ineffective, or materially interfering with, a domestic price support program.

Section 103(g) will allow the President to continue using section 22 in an effective manner when protection of a price support program is called for. This will not prejudice beneficiary countries, who will still maintain a preferential advantage over dutiable imports notwithstanding the fact that they are subject to section 22 fees. Section 103(g) is consistent with present law regarding application of section 22 fees. Such fees apply to all imports, including those receiving duty-free treatment under GSP.

Section 104. Measures for Puerto Rico and United States insular possessions

Section 104 contains a number of measures designed to maintain the competitive position of Puerto Rico and the U.S. insular possessions which might otherwise be adversely affected by the Caribbean Basin Initiative. The Committee believes that Puerto Rico and the Virgin Islands are important components of the U.S. presence in the Caribbean region and agrees with the Administration that the economic development of the U.S. possessions will be enhanced by the legislation. Although insular possessions are not part of customs territory, current law recognizes their special status and gives their imports preferential treatment. H.R. 7397 will improve such treatment. In addition to the Virgin Islands, the U.S. possessions

include Guam, American Samoa, Wake Island, Kingman Reef, Johnson Island, and Midway Islands.

Increase in foreign content limitations

Section 104(a) amends general headnote 3(a) of the TSUS with respect to the duty-free treatment of products of U.S. insular possessions. General headnote 3(a)(i) currently provides that any article containing foreign materials shipped to the United States from its insular possessions may enter free of duty if the value of the foreign content does not exceed 50 percent of the total value of the article. In the case of watches and watch movements, the current foreign content limitation is 70 percent.

Section 104(a) increases the permissible foreign content for all articles except petroleum and petroleum products to 70 percent, thereby according most products manufactured in the insular possessions the same treatment that is currently provided to the insular watch industry. The purpose of this provision is to maintain the overall competitive position of the insular possessions relative to CBI beneficiary countries. With respect to the petroleum and petroleum products, the maximum foreign content remains 50 percent. The reason for this exception is to prevent pass-through abuses. Since petroleum and petroleum products from the Caribbean Basin are excluded from duty-free treatment under section 103(b), it is not necessary to increase the foreign content potential on such products under general headnote 3(a) as an equalizing measure for the insular possessions.

It should be noted that section 104(a) does not apply to Puerto Rico since Puerto Rico is part of the "customs territory of the United States." Puerto Rican products shipped to the continental United States are not imports and, therefore, are not subject to customs duties.

Increase in duty-free entry of alcoholic beverages

Section 104(b) amends TSUS item 813.31 to permit duty-free entry of 5 liters of alcoholic beverages by returning U.S. residents arriving directly from U.S. insular possessions, provided at least one liter is the product of an insular possession.

This provision is intended to offset the potential effects of the free trade provisions on producers of alcoholic beverages in the Virgin Islands, and to provide greater stimulus to the sale of their products for consumption in the United States.

Under present law, returning U.S. residents are entitled to 4 liters of duty-free spirits when arriving directly from an insular possession. At least 3 of the 4 liters must be a product of such possession.

Compensation for loss of revenues from excise tax rebates

Section 104(c) requires the President to consider compensatory measures for the governments of Puerto Rico and the Virgin Islands if there is a reduction in the amount of rum excise tax rebates to either of these governments mandated under section 201 of this bill. Included in the type of compensation the President may grant is the withdrawal of duty-free treatment of rum. However, the President may consider other appropriate forms of compensa-

tion. The President is required to submit a report to Congress on the measures he takes.

The purpose of subsection (c) is to ensure that the President considers appropriate action to protect the revenues of Puerto Rico and the Virgin Islands in the event that rebates of federal excise taxes on rum decline. Since these islands are heavily dependent on this source of revenue, both governments have expressed concern that a possible change in the level or formula of the rebate could have a serious budgetary impact unless compensation is granted.

Repeal of compensation authority for MTN concessions

Section 104(d) repeals section 1112 of the Trade Agreements Act of 1979, since this provision is no longer necessary in view of the provision in section 201 of this bill for rebate of all excise taxes on imported rum to Puerto Rico and the Virgin Islands and the requirement in section 104(c) that the President consider compensation if such revenues decline. Section 1112 authorizes the President to recommend budget appropriations for payment to Puerto Rico and the Virgin Islands if their revenues from excise taxes are reduced as a result of concessions granted during the Tokyo Round of Multilateral Trade Negotiations. This provision has never been invoked.

Duties on coffee imposed by Puerto Rico

Section 104(e) provides that duty-free treatment will not affect duties on coffee imported into Puerto Rico imposed by the Puerto Rican legislature pursuant to section 319 of the Tariff Act of 1930.

Inclusion of insular possessions industries under import relief law

Section 104(f) clarifies the term "industry" for import relief purposes to include producers located in U.S. insular possessions. This provision will enable producers within the insular possessions to petition for import relief, and will require the ITC to consider such producers in assessing whether increased imports have caused injury to the domestic industry.

Rum stillage exemption

Section 104(g) would exempt any effluent discharge which emanates from an existing source in the U.S. Virgin Islands from the requirements of section 301 of the Federal Water Pollution Control Act (other than toxic pollutant discharges) and from sections 306 and 403 of that Act. The exemption would apply if the discharge: (1) is attributable to the manufacture of rum; (2) occurs in the sea at least 1500 feet from shore; and (3) is determined by the Governor of the Virgin Islands not to constitute a hazard for the surrounding marine environment or a threat for human health.

While such an amendment to this Act is solely within the jurisdiction of the Committee on Public Works and Transportation, that Committee has advised that it would have no objection to inclusion of the amendment in H.R. 7397.

The amendment is intended to provide needed regulatory relief for the Virgin Islands' rum industry. Under present law, Clean Water Act permits issued by the Virgin Islands are subject to

review and veto by the U.S. Environmental Protection Agency (EPA).

The EPA has been challenging the water quality impacts of rum stillage discharged by the Virgin Islands rum industry into the Caribbean Sea from distilleries on St. Croix. Because of the unique geographic, climatic, and economic circumstances of the Virgin Islands, the Act has caused unintended adverse consequences to the rum industry.

Section 105. ITC reports on impact of this act

Section 105 requires the International Trade Commission to prepare and submit a report to the Congress and the President on a regular basis assessing the economic impact of the benefits under this Act. The first such report will cover the first two years of the Act's operation, and will be followed by yearly reports thereafter.

Each ITC report will include an assessment of the actual effects, during the period covered by such report, of the Act's provisions on the U.S. economy generally as well as those specific industries producing articles like or directly competitive with Caribbean Basin imports. It will also include an assessment of the probable future effects. Subsection (b) sets forth various factors the Commission should, to the extent practicable, consider in its analysis. These factors are the same as those listed in section 131 of the Trade Act of 1974, and include such matters as domestic production, trade, consumption, profit levels, employment, prices, wages, capital investment, and use of productive facilities. The Commission must provide an opportunity for the submission of information by interested persons.

The Administration and the Committee on Ways and Means are in agreement on the goal of improving relations with the developing nations of the Caribbean Basin through the promotion of trade in order to create a more positive social, political, and economic climate which will foster democracy. Since the political, economic, and security problems of developing Caribbean nations have reached crisis proportions, it is in the best interests of the United States to promote political stability through economic security.

Therefore, it is the intention of the Committee that a Caribbean Basin Institute should be created to house trade offices for American and Caribbean business where ideas and information can be exchanged to promote, support, and encourage trade between the Caribbean and the United States.

This institute will bring together public and private interests to engage in trade. It shall also serve as a catalyst for cultural exchanges between the United States and Caribbean Basin nations. The Committee also believes that this institute shall create expanded job opportunities both in the United States and the Caribbean Basin.

The ideal location for such a trade institute is Harlem, the cultural capital of American descendents of immigrants from developing nations.

The Committee on Ways and Means directs the Department of State to study the feasibility of a Caribbean Trade Institute to be located in Harlem which will encourage and promote stronger trade ties with the nations of the Caribbean Basin. The Depart-

ment of State is advised that much of the ground work for this study has been laid by the Harlem Urban Development Corporation in its study of a Third World Trade Center. The Trade Institute should be built with a combination of federal and private funds.

Section 106. Effective date of title and termination of duty-free treatment

Section 106 of H.R. 7397 provides an effective date of date of enactment for Title I of H.R. 7397 and authority for 12 years to grant duty-free treatment to Caribbean imports, terminating on September 30, 1994.

The Administration has proposed an extended 12-year period for this program as a demonstration by the U.S. Government of its commitment to the development of the Caribbean Basin and to make the CBI more attractive than GSP given the location and importance of that region. In addition, many believe that it takes an average of 12 years for investments that may result under the Act to come on stream and generate revenues equal to the capital outlay.

TITLE II. TAX PROVISIONS

1. Rum Excise Taxes (section 201 of the bill and section 7652 of the Code)

Present law

An excise tax of $10.50 per proof gallon is imposed on distilled spirits (including rum) produced in or imported into the United States (Code sec. 5001). The tax is imposed on the manufacturer or on the importer of the distilled spirits and is payable at the time the spirits are removed for consumption or sale from the distillery, or from customs custody in the case of imported spirits. Generally, merchandise manufactured in Puerto Rico and brought into the United States for consumption or sale or merchandise coming into the United States from the Virgin Islands is subject to a tax equal to the tax imposed in the United States upon similar merchandise of domestic manufacture (sec. 7652).

All taxes collected under the Internal Revenue Code on articles produced in Puerto Rico and transported to the United States (less the estimated amount necessary for payment of refunds and drawbacks), or consumed on the island, are deposited into the Treasury of Puerto Rico. Internal Revenue collections (less certain amounts deposited to the U.S. Treasury as miscellaneous receipts) on articles or merchandise produced in the Virgin Islands and transported to the United States are deposited quarterly into the Treasury of the Virgin Islands.

If the Virgin Islands Government does not obligate or expend the money received during a fiscal year for an approved purpose, the balance may be spent in a later year, but only for approved emergency relief purposes and essential public projects. If, at the end of the fiscal year, any unobligated or unexpended balance of the Federal contribution remaining would cause the monies available only for emergency relief purposes and essential public projects to

exceed $5 million, the excess over $5 million is transferred and paid over to the U.S. Treasury.

Reasons for change

The elimination of duties on certain rum imported from Caribbean Basin countries under Title I will reduce the price of that imported rum to U.S. consumers. That price reduction may reduce the U.S. sales of rum produced in Puerto Rico and the U.S. Virgin Islands from what such sales otherwise would have been. Any such reduction in U.S. sales of rum produced in Puerto Rico and the Virgin Islands will reduce revenues (from excise taxes collected on rum) transferred to the Governments of these possessions. Although the Committee intends to benefit countries in the Caribbean Basin that meet certain criteria, it does not intend to do so at the expense of Puerto Rico and the Virgin Islands. This provision protects their revenues.

Explanation of provision

All distilled spirits excise taxes collected (under section 5001(a)(1) of the Internal Revenue Code) on rum imported into the United States from outside the country (including rum from possessions other that the Virgin Islands and Puerto Rico),[2] whether or not from a Caribbean Basin country, are paid over to the treasuries of Puerto Rico and the Virgin Islands. These payments are to be reduced by the estimated amount necessary for payment of refunds and drawbacks. The bill does not impose restrictions on the uses to which the Government of the Virgin Islands or the Government of Puerto Rico may put the revenues they receive under this provision.

The Secretary of the Treasury is to prescribe by regulation a formula for the division of tax collections between Puerto Rico and the Virgin Islands. The Secretary may change this formula from time to time. It is the Committee's intent that the bill not cause an inadvertent reduction in Federal tax payments to the Treasuries of Puerto Rico and the Virgin Islands with respect to rum excise tax collection.

Rum is defined by reference to the Tariff Schedules of the United States, 19 U.S.C. 1201, so as to include *cana paraguaya.*

Effective date

This provision applies to rum imported into the United States after December 31, 1982.

Revenue effect

It is estimated that this provision will reduce fiscal year receipts by $13 million in 1983, $20 million in 1984, $24 million in 1985, $27 million in 1986, and $33 million in 1987. This estimate does not take into account behavorial change that may result because of enactment of the proposal. Consequently, it should be regarded as a minimum estimate.

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[2] Nc other possession now imports rum into the United States.

2. Business Expense Deductions for Conventions in Certain Caribbean Countries, Etc. (sec. 202 of the bill and secs. 274 and 6103 of the Code)

Present law

A deduction is allowed for the ordinary and necessary expenses of carrying on a trade or business or income-producing activity, including transportation expenses and amounts expended for meals and lodging while away from home in pursuit of a trade or business or income-producing activity (Code sec. 162). Only such traveling expenses as are reasonable and necessary in the conduct of the taxpayer's business and directly attributable to it may be deducted. Fees charged for admission to a convention or other meeting generally are deductible if there is a sufficient relationship between the taxpayer's trade or business or income-seeking activity and attendance at the convention or other meeting. Therefore, generally, a deduction is allowed for the costs of attending a convention or seminar in pursuit of a trade or business or income-producing activity.

A special rule (Code sec. 274(h)) applies to expenses for attendance at conventions, seminars, or similar meetings if held outside the United States, its possessions, Canada, Mexico, or the Trust Territory of the Pacific Islands (the "North American area"). (Conventions, etc., held outside the North American area commonly are referred to as "foreign conventions.") No deduction is allowed for the expenses of attending a foreign convention unless the taxpayer establishes that the cost is directly related to the active conduct of a trade or business or income-producing activity and that it is as reasonable to hold the meeting outside the North American area as within it (sec. 274(h)(1)).[3] This rule applies both to the expenses paid by individuals attending such conventions and to expenses paid by employers of such individuals. (Under a related rule, no deduction is allowed for the expenses of attending any convention, etc., held on a cruise ship, even if the ship is sailing entirely within U.S. territorial waters (sec. 274(h)(2)).)

Under current law, the United States has difficulty in obtaining information to enforce its tax laws when transactions occur (or when information is located) overseas. The United States has entered into a network of income tax treaties that provide for exchanges of information to enable the United States and its treaty partner to enforce the tax laws which are covered by the treaty. However, the exchange of information articles in some treaties are not satisfactory, because they do not affect local laws protecting disclosure of certain information, such as information regarding the ownership of bank accounts or the beneficial ownership of trusts. Moreover, the United States has treaties with few Caribbean countries, in part because some of those countries do not generally impose income taxes.

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[3] Under the United States-Jamaican income tax treaty, deductions are permitted for certain expenses of attending a convention in Jamaica (Art. 25(7)). This treaty does not provide for reciprocal treatment by Jamaica of U.S. conventions.

Reasons for change

Restriction of deductions for attending conventions to those held in the North American area has adversely affected service industries (such as the hotel and restaurant industries) in the Caribbean Basin. These industries are important to the economies of the area. Furthermore, granting deductions for conventions in Canada and Mexico, and in Jamaica by treaty, is perceived as unfair by the countries in the region.

Bermuda's reliance on service industries is similar to that of Caribbean Basin countries. The Committee did not want to treat this friendly country more harshly in this respect than the other countries in the region.

However, the Committee also recognizes that some Caribbean Basin countries have been used by persons seeking to evade or avoid U.S. taxes. The committee believes that the favorable convention treatment should be available only to those countries which are willing to assist the United States in enforcing its tax laws.[4] Accordingly, the convention deduction is made available only for conventions in a country that enters into an exchange of information agreement with the United States.

Explanation of provision

The bill allows deductions for the ordinary and necessary expenses (in pursuit of a trade or business or income-producing activity) of attending conventions and similar meetings in those countries among the Caribbean Basin countries and Bermuda that meet three criteria discussed below. The taxpayer need make no showing that holding a convention in a country meeting these criteria is as reasonable as holding it in another location.

First, the only countries that may qualify for this convention treatment are beneficiary countries, as defined in section 102(a)(1)(A) of Title I, and Bermuda.

Second, deductions will be available only for expenses of attending conventions held in countries with which an agreement with the United States to exchange of tax information is in force at the time the convention begins. The bill authorizes the Secretary of the Treasury to negotiate and conclude such agreements, which may be bilateral or multilateral. Such an agreement will provide, on a reciprocal basis, for information relating to U.S. tax matters to be made available to persons or authorities (including courts and administrative bodies) involved in the administration of U.S. taxes (including assessment and collection of taxes and enforcement and prosecution in respect of taxes) or oversight of the administration of such taxes (a role of this Committee and of the General Accounting Office) or in the determination of appeals in respect of such taxes.

The exchange of information agreement must apply to and include provisions relating to both civil and criminal tax matters within in the U.S. meaning of those concepts. While the bill ac-

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[4] The committee is aware that as part of the agreement granting favorable convention treatment to Jamaica, Jamaica made substantial concessions in terms of a far reaching anti-treaty shopping provision, notes promising broad exchanges of information, and a promise to negotiate a mutual assistance treaty concerning criminal matters generally.

cords the Secretary discretion regarding what kinds of information will be included within the scope of the exchange of information provisions, but provides certain standards for such agreements. The agreement must apply to information relevant to tax matters of the United States or of the other country whether or not that information concerns nationals or residents of the United States or the other country.

The agreement must require production of information notwithstanding local rules requiring secrecy about such information as the ownership of bank accounts, trusts or bearer shares. In this respect, the agreements contemplated by the bill may go beyond the exchange of information articles of some U.S. tax treaties, which may defer to local secrecy laws. The agreement will impose on the officials of each country a duty not to disclose this information other than to those involved in its tax administration. The provision makes it clear that exchange of information agreements are to be treated as income tax conventions for the purpose of the Code rule that allows tax officials to disclose tax information pursuant to such conventions (sec. 6103(k)(4)).

The information to be exchanged under the agreement is not limited to information about any particular class of transactions. The Committee intends that the information obtained be usable as evidence in court. Thus, the Committee intends that the exchange of information agreement provide that, if a party specifically requests, information shall be furnished in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts, and writings) in a form admissible into evidence. It is intended that, in general, the country have a process for obtaining the information required to be provided by that country.

It is expected that the exchange of information agreements will generally become effective on signature. The text of the agreements must be transmitted to Congress no later than sixty days after the agreement has been signed, in accordance with the Case Act (1 U.S.C. section 112b).

Any exchange of information agreements are to be terminable by either country on reasonable notice. No deductions will be allowed for business expenses of conventions or similar meetings begun in a country after termination of the exchange of information agreement. Termination should occur if, for example, the other country is not abiding by its obligations under the agreement to supply information or to maintain confidentiality. Termination is to occur in the manner set forth in the agreement.

Third, deductions will not be available for conventions in any country that begin after publication in the Federal Register of a finding by the Secretary that that country discriminates in its tax laws against conventions and similar meetings held in the United States or the U.S. possessions. The Secretary may withdraw such a finding by a subsequent announcement in the Federal Register.

Effective date

This provision will apply to conventions beginning after December 31, 1982, but only if an exchange of information agreement is in effect on the day the convention begins.

Revenue effect

It is estimated that this provision will reduce fiscal year receipts by less than $5 million per year.

Vote of the Committee in Reporting the Bill

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill. H.R. 7397 was ordered favorably reported by the Committee, with four amendments, by a rollcall vote of 27 yeas, 6 noes.

Oversight Findings

In compliance with clause 2(l)(2)(A) of rule XI of the Rules of the House of Representatives relating to oversight findings, the Committee has concluded, as a result of its recent factfinding mission to the Caribbean Basin and its extensive review of the issues involved, that enactment of H.R. 7397 is necessary for the economic and political viability of the Caribbean Basin and will be beneficial to the U.S. economy by stimulating exports to that region and creating additional jobs.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in this bill.

Budgetary Authority and Cost Estimates, Including Estimates of Congressional Budget Office

In compliance with clause 7(a) of rule XIII and clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 7397, as amended, does not provide any new budget authority or any new or increased tax expenditures.

In compliance with clause 7(a) of rule XIII and clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee provides below information furnished by the Congressional Budget Office on H.R. 7397, and required to be included herein:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., December 10, 1982.

Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means,
House of Representatives,
Washington, D.C.

Dear Mr. Chairman: In accordance with the Budget Act, The Congressional Budget Office has examined H.R. 7397, the Caribbean Basin Economic Recovery Act. This bill provides for a combination of tax and tariff incentives designed to provide financial and trade assistance to Caribbean nations.

This bill does not provide for any new budget authority or any new or increased tax expenditures.

In accordance with Section 403 of the Budget Act, the Congressional Budget Office has reviewed the estimates and methodology of the staffs of the Joint Committee on Taxation and the International Trade Commission and agrees with the resulting estimates. The bill is estimated to reduce budget receipts by the following amounts.

[Fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987
Estimates	79.3	107.4	111.4	114.4	120.4

Individual revenue estimates of Titles I and II of the bill are contained in the enclosed table.

Sincerely,

ALICE M. RIVLIN, *Director.*

ESTIMATED REVENUE EFFECTS OF H.R. 7397—CARIBBEAN BASIN RECOVERY ACT (AS REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS)

	1983	1984	1985	1986	1987
Title I:					
Duty free provisions	−63.3	−84.4	−84.4	−84.4	−84.4
Title II—tax provisions:					
Excise taxes collected on rum from Puerto Rico and the Virgin Islands	−13.0	−20.0	−24.0	−27.0	−33.0
Allowance of expense deductions for Caribbean conventions	(1)	(1)	(1)	(1)	(1)
Total	−79.3	−107.4	−111.4	−114.4	−120.4

[1] Less than $5 million.

INFLATIONARY IMPACT STATEMENT

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 7397, as amended, which involves a total estimated cost of $79.3 million in fiscal year 1983, increasing annually to $120.4 million in fiscal year 1987, would not have an inflationary impact on prices and costs in the operation of the general economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TARIFF SCHEDULES OF THE UNITED STATES

GENERAL HEADNOTES AND RULES OF INTERPRETATION

1. *Tariff Treatment of Imported Articles.*—All articles imported into the customs territory of the United States from outside thereof

are subject to duty or exempt therefrom as prescribed in general headnote 3.

2. *Customs Territory of the United States.*—The term "customs territory of the United States", as used in the schedules, includes only the States, the District of Columbia, and Puerto Rico.

3. *Rates of Duty.*—The rates of duty in the "Rates of Duty" columns numbered 1 and 2 and the column designated LDDC of the schedules apply to articles imported into the customs territory of the United States as hereinafter provided in this headnote:

(a) *Products of Insular Possessions.*—

(i) Except as provided in headnote 6 of schedule 7, part 2, subpart E, and except as provided in headnote 3 of schedule 7, part 7, subpart A, articles imported from insular possessions of the United States which are outside the customs territory of the United States are subject to the rates of duty set forth in column numbered 1 of the schedules, except that all such articles the growth or product of any such possession, or manufactured or produced in any such possession from materials the growth, product, or manufacture of any such possession or of the customs territory of the United States, or of both, which do not contain foreign materials to the value of more than [50] *70* percent of their total value [(or more than 70 percent of their total value with respect to watches and watch movements)] *(or more than 50 percent of their total value with respect to petroleum, and products derived from petroleum, provided for in part 10 of schedule 4),* coming to the customs territory of the United States directly from any such possession, and all articles previously imported into the customs territory of the United States with payment of all applicable duties and taxes imposed upon or by reason of importation which were shipped from the United States, without remission, refund, or drawback of such duties or taxes, directly to the possession from which they are being returned by direct shipment, are exempt from duty.

(ii) In determining whether an article produced or manufactured in any such insular possession contains foreign materials to the value of more than [50] *70* percent, no material shall be considered foreign which either—

(A) at the time such article is entered, or

(B) at the time such material is imported into the insular possession,

may be imported into the customs territory from a foreign country, other than Cuba or the Philippine Republic, and entered free of duty; except that no article containing material to which (B) of this subdivision applies shall be exempt from duty under subdivision (1) unless adequate documentation is supplied to show that the material has been incorporated into such article during the 18-month period after the data on which such material is imported into the insular possession.

(iii) Subject to the limitations imposed under section 503(b) and 504(c) of the Trade Act of 1974, articles designated eligible articles under section 503 of such Act which

are imported from an insular possession of the United States shall receive duty treatment no less favorable than the treatment afforded such articles imported from a beneficiary developing country under title V of such Act.

(iv) Subject to the provisions in section 103 of the Caribbean Basin Economic Recovery Act, articles which are imported from insular possessions of the United State shall receive duty treatment no less favorable than the treatment afforded such articles when they are imported from a beneficiary country under such Act.

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SCHEDULE 8.—SPECIAL CLASSIFICATION PROVISIONS

* * * * * * *

Item	Articles	Rates of Duty	
		1	2
	PART 2.—PERSONAL EXEMPTIONS		
	* * * *	* * *	
	Subpart A.—Residents and Nonresidents		
	* * * *	* * *	
813.31	Articles whether or not accompanying a person, not over $600 in aggregate fair market value in the country of acquisition, including— (a) but only in the case of an individual who has attained the age of 21, not more than **[**4**]** *5* liters of alcoholic beverages, not more than 1 liter of which shall have been acquired elsewhere than in American Samoa, Guam, or the Virgin Islands of the United States, *and not more than 4 liters of which shall have been produced elsewhere than in such insular possessions;* (b) not more than 1,000 cigarettes, not more than 200 of which shall have been acquired elsewhere than in such insular possessions, and not more than 100 cigars, if such person arrives directly or indirectly from such insular possessions, not more than $300 of which shall have been acquired elsewhere than in such insular possessions (but this item does not permit the entry of articles not accompanying a person which were acquired elsewhere than in such insular possessions)	Free	Free

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INTERNAL REVENUE CODE OF 1954

Subtitle A—Income taxes

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Chapter 1—Normal Taxes and Surtaxes

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Subchapter B—Computation of Taxable Income

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PART IX—ITEMS NOT DEDUCTIBLE

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SEC. 274. DISALLOWANCE OF CERTAIN ENTERTAINMENT, ETC., EXPENSES.

(a) ENTERTAINMENT, AMUSEMENT, OR RECREATION.—* * *

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(h) ATTENDANCE AT CONVENTIONS, ETC.—

(1) IN GENERAL.—In the case of any individual who attends a convention, seminar, or similar meeting which is held outside the North American area, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting unless the taxpayer establishes that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212 and that, after taking into account in the manner provided by regulations prescribed by the Secretary—

(A) the purpose of such meeting and the activities taking place at such meeting,

(B) the purposes and activities of the sponsoring organizations or groups,

(C) the residences of the active members of the sponsoring organization and the places at which other meetings of the sponsoring organization or groups have been held or will be held, and

(D) such other relevant factors as the taxpayer may present,

it is as reasonable for the meeting to be held outside the North American area as within the the North American area.

(2) CONVENTIONS ON CRUISE SHIPS.—In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting.

(3) DEFINITIONS.—For purposes of this subsection—

(A) NORTH AMERICAN AREA.—The term "North American area" means the United States, its possessions, and the Trust Territory of the Pacific Islands, and Canada and Mexico.

(B) CRUISE SHIP.—The term "cruise ship" means any vessel sailing within or without the territorial waters of the United States.

(4) SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—

(A) Except as provided in subparagraph (B), this subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the convention, seminar, or similar meeting.

(B) This subsection shall not deny a deduction to any person other than the individual attending the convention, seminar, or similar meeting with respect to any amount paid by such person to or on behalf of such individual if includible in the gross income of such individual. The preceding sentence shall not apply if the amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included.

(5) TREATMENT OF CONVENTIONS IN CERTAIN CARIBBEAN COUNTRIES.—

(A) IN GENERAL.—For purposes of this subsection, the term "North American area" includes, with respect to any convention, seminar, or similar meeting, any beneficiary country if (as of the time such meeting begins)—

(i) there is in effect a bilateral or multilateral agreement between such country and the United States providing for the exchange of information between the United States and such country, and

(ii) there is not in effect a finding by the Secretary that the tax laws of such country discriminate against conventions held in the United States.

(B) BENEFICIARY COUNTRY.—For purposes of this paragraph, the term "beneficiary country" has the meaning given to such term by section 102(a)(1)(A) of the Caribbean Basin Economic Recovery Act; except that such term shall include Bermuda.

(C) AUTHORITY TO CONCLUDE EXCHANGE OF INFORMATION AGREEMENTS.—The Secretary is authorized to negotiate and conclude an agreement for the exchange of information with any beneficiary country. An exchange of information agreement shall provide for the exchange of such information (not limited to information concerning nationals or residents of the United States or the beneficiary country) as may be necessary or appropriate to carry out and enforce the tax laws of the United States and the beneficiary country (whether criminal or civil proceedings), including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country such as provisions respecting bank secrecy and bearer shares. The exchange of information agreement shall be terminable by either country on reasonable notice and shall provide that information received by either country will be disclosed only to persons or authorities (including courts and administrative bodies) involved in the administration or oversight of, or in the determination of appeals in respect of, taxes of the United States or the beneficiary country and will be used by such persons or authorities only for such purposes.

(D) COORDINATION WITH SECTION 6103.—Any exchange of information agreement negotiated under subparagraph (C) shall be treated as an income tax convention for purposes of section 6103(k)(4).

(E) FINDINGS PUBLISHED IN THE FEDERAL REGISTER.—Any finding by the Secretary under subparagraph (A)(ii) (and any termination thereof) shall be published in the Federal Register.

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Subtitle F—Procedure and Administration

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CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

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Subchapter D—Possessions

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SEC. 7652. SHIPMENTS TO THE UNITED STATES.

(a) PUERTO RICO.—* * *

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(c) SHIPMENTS OF RUM TO THE UNITED STATES.—

(1) EXCISE TAXES ON RUM COVERED INTO TREASURIES OF PUERTO RICO AND VIRGIN ISLANDS.—All taxes collected under section 5001(a)(1) on rum imported into the United States (less the estimated amount necessary for payment of refunds and drawbacks) shall be covered into the treasuries of Puerto Rico and the Virgin Islands.

(2) SECRETARY PRESCRIBES FORMULA.—The Secretary shall, from time to time, prescribe by regulation a formula for the division of such tax collections between Puerto Rico and the Virgin Islands and the timing and methods for transferring such tax collections.

(3) RUM DEFINED.—For purposes of this subsection, the term "rum" means any article classified under item 169.13 or 169.14 of the Tariff Schedules of the United States (19 U.S.C. 1201).

(4) COORDINATION WITH SUBSECTIONS (a) AND (b).—Paragraph (1) shall not apply with respect to any rum subject to tax under subsection (a) or (b).

SECTION 1112 OF THE TRADE AGREEMENTS ACT OF 1979

[SEC. 1112. CONCESSION-RELATED REVENUE LOSSES TO UNITED STATES POSSESSIONS.

[(a) DETERMINATIONS BY SECRETARY OF COMMERCE.—

[(1) IMPACT OF CONCESSIONS.—Upon the request of the government of a possession of the United States, the Secrtary of Commerce shall determine before January 1, 1980—

[(A) whether a concession was granted by the United States in the Tokyo Round of the Multilateral Trade Negotiations on an article produced in that possession on which excise taxes are levied by the United States, and

[(B) whether the sum of the amounts transferred and paid over to that possession attributable to such taxes for calendar year 1978 were equal to, or greater than, an amount equal to 10 percent of the tax revenues (not including revenues associated with petroleum or petroleum products) of that possession for 1978.

[(2) ANNUAL DETERMINATIONS.—If the determinations of the Secretary under subparagraphs (A) and (B) of paragraph (1) are affirmative, then he shall determine, within 3 months after the close of each of the fiscal years 1980 through 1984, whether that concession contributed importantly to a reduction in the sum of the amounts transferred and paid over to that possession on account of such excise taxes for the most recently closed fiscal year. In making his determination, the Secretary shall take into account the extent to which other factors may have contributed to the reduction. The Secretary shall determine the amount of the reduction by subtracting the amount so transferred and paid over for the fiscal year from the amount which would have been transferred and paid over for the fiscal year if the products of the possession with respect to which the excise tax is imposed had maintained a share of the United States market for that product which was the share of the United States market for the product for fiscal year 1979.

[(b) INCLUSION OF COMPENSATORY AMOUNT IN BUDGET OF THE UNITED STATES.—If the Secretary determines an amont under subsection (a)(2), he shall advise the President of that amount and the President may include, in the first Budget or Supplemental Budget submitted under the Budget and Accounting Act, 1921, after receiving such advice, an amount, equal to the amount so determined by the Secretary, for payment to the government of that possession to offset the amount of the reduction. If the President includes an amount different from the amount determined by the Secretary or no amount, the President shall promptly submit a report to the Congress setting forth his reasons for submitting such a different amount. Upon appropriation, such sums shall be paid promptly to the government of such possession. There are authorized to be appropriated such sums as may be necessary for the purposes of this section for fiscal years 1981 through 1985.

[(c) REPORT TO THE CONGRESS.—On January 31, 1984, the President shall report to the Congress on the operation of this section, the reductions in revenues determined under this section, and any reductions which are likely to occur in fiscal years beginning after September 30, 1984. If he determines that such action is warranted, he shall recommend to the Congress in such report an extension of the application of this section to such fiscal years.]

ADDITIONAL VIEWS OF THE HONORABLE RICHARD T. SCHULZE

The Caribbean region has severe financial problems. Its economy is largely dependent on the U.S. economy, and the swings in employment are more volatile than in our country. As part of the trade delegation which visited the Caribbean last month, I had an opportunity to see firsthand the problems that exist. It is apparent that political stability in the region is closely tied to economic improvement in the several countries.

Accordingly, I recognize the need and importance of the Caribbean Initiative.

By the same token I believe that improvement of the Caribbean economy must not be undertaken at the expense of or own economy which is suffering high unemployment and other ailments. One industry in particular is especially vulnerable.

The domestic mushroom industry is beyond doubt an extremely import-sensitive enterprise. Being chiefly labor intensive, it has been victimized by a flood of foreign canned mushrooms, which are produced by cheap labor and are often subsidized by foreign governments in one fashion or another. The result has been a seriously weakened domestic mushroom industry.

Since 1972, 13 domestic canning firms have ceased operation, leaving only 22 to process canned products. Over 50 percent of the apparent domestic consumption of canned mushrooms will be from imports in 1982. When growers cannot sell those mushrooms not sold on the fresh market to canners, they are no longer profitable. The People's Republic of China now occupies fully 80 percent of the import market in the United States. Despite the imposition of a three-year duty increase in 1980, Chinese imports have severely damaged the domestic industry. During consideration of Most Favored Nation status for the PRC by this Committee in 1980, I warned that "products imported from the People's Republic of China may possibly have an adverse impact on certain domestic industries, including growers, processors, and workers in the mushroom industry."

I was not successful in my efforts to deny the PRC MFN. The prevailing wisdom at the time did not agree with my concerns about import sensitive industries being harmed by MFN for the PRC. The facts as we now know them indicate beyond doubt that I was correct. Now the domestic mushroom industry faces a new potential threat from the Caribbean Basin region. The Caribbean Basin Economic Recovery Act of 1982, as reported by the Committee, poses another major threat to the duties on products, creating a great potential for further damage to the domestic industry.

Let there be no doubt as to the reality of that threat. The Dominican Republic, Costa Rica, Guatemala and Haiti all currently grow mushrooms. The Dominican Republic and Haiti have export-

ed fresh mushrooms to the U.S.; Costa Rica and the Dominican Republic have sent canned mushrooms to the U.S. Mexican and Italian and Korean businesses have investigated establishing mushroom operations in the Caribbean. The U.S. International Trade Commission has confirmed the feasibility of growing mushrooms in a semi-tropical climate such as exists in the region designated under the CBI.

As I stated earlier, the canned mushroom market was shown to have been materially injured by imports after an investigation by the ITC in 1980. As a result of the investigation, the duty on canned imports was increased for a period of three years; the present duty is 3.2¢ per pound plus 10 percent ad valorem plus 10 percent temporary duty increase. This duty increase will expire on October 31, 1983. Additionally, fresh mushrooms currently have a 5¢ per pound plus 25 percent ad valorem.

Due to the existence of mushroom operations in three of the eligible CBI countries, and because of the current depressed state of the domestic mushroom industry, I believe that a reduction from the current rates of duty on mushrooms from the Caribbean would have a serious adverse impact on the domestic industry. In fact, in 1980, a firm located in the Dominican Republic petitioned to have the rate of duty on fresh mushrooms reduced to the GSP rate, which is to say, zero. The decision was to not grant GSP duty, based on the conclusion that such action would provide Caribbean mushrooms with a substantial cost advantage, resulting in loss of market share for domestic mushrooms.

It is clear to me that the already depressed industry would be further damaged by an elimination of duties on mushrooms, as proposed in the CBI.

As I stated at the outset, I support the concept of the Carribbean Basin Initiative, and wish the program success. However, I do not believe that the Congress of the United States should destroy the livelihood of American growers, their families, and workers which could well be the result of failing to exclude mushrooms from the duty-free treatment provided under the CBI. I believe that the bill should be amended to provide for this exclusion, and for that reason I offered two amendments during Committee consideration of the bill. I am sorry that a majority of my colleagues did not agree to them.

The Caribbean region is in need of assistance to its economy, and I am in full agreement that the assistance should be through stimulation to business investment. One of the major deterrents to investment in the area is fear of the political risks. Many businessmen have told me that were it not for the fear of losing their investment through war, rebellion, expropriation, or the inconvertibility of profits or earnings into U.S. dollars, they would consider investing in the Basin.

Let me refer to a tragic case in point. This concerns a matter which was extensively debated on the floor of the House of Representatives on June 20, 1979, when Congress was considering the Panama Canal Treaty implementing legislation. I refer to two outstanding expropriation claims against Panama which date back to 1970 and 1974, respectively. In the 96th Congress, during debate on H.R. 111 we received repeated assurances from the State Depart-

ment that the expropriation claim of Boston-Panama Company, which goes back to 1970, and that of Citricos de Chiriqui, S.A., which goes back to 1974, would shortly be honored by Panama and there was no need to include an amendment to the Treaty legislation which would have required Panama to address a resolution to these claims before receiving Treaty payments. I am sorry to state that, despite those assurances in 1979, we are now approaching 1983 with the claims still unresolved.

It seems appropriate, therefore, that we take this opportunity to remind the Administration that the benefits to be conferred by H.R. 7397 are not expected to be extended to any Caribbean country which engages in this kind of conduct to the detriment of U.S. citizens.

The language of Section 102 of the bill is aimed at preventing precisely this kind of activity by denying "beneficiary country" status in situations like the present cases. Frankly, I can think of nothing which more discourages foreign investment in a country than the fear that one's business property may suddenly be seized and that compensation will be given, if at all, only after years of delay. In these two expropriation cases the Government of Panama has regrettably shown hostility to American investors by its indifference to reimbursing the property owners. I am certain the economy of Panama has not gained as a result of this conduct.

While we desire that all Caribbean Basin countries share in the benefits designed to be conferred by the Initiative, at the same time it would seem highly inappropriate for this Administration to be conferring special benefits to a country which is not addressing its obligation to reimburse U.S. citizens for property take from them.

By the same token there are things that could be added to the bill that would mitigate the damage to investor attitudes that has been done by expropriation policies such as the one described above.

I believe that the bill should be amended to provide for a credit against federal income tax equal to 30 percent of the amount of premiums paid for qualified political risk insurance. For a taxpayer to qualify, he would have to be engaged in a new business activity in beneficiary country. The credit would be in addition to the deduction presently available.

The result, of course, would be a reduction in tax equal to 76 percent for corporate taxpayers (marginal rate of 46% plus credit of 30%) of the premiums paid for the qualifying insurance. While this may strike some as an excessive involvement by the federal government, I would point out that this involvement would very likely cost much less than many direct aid schemes that have been suggested for third world nations. The revenue impact of such a credit would be minimal ($2–5 million).

In summary, I support the concept of the Caribbean Basin Initiative and believe that the bill could easily be improved. It could have been drafted so as not to do damage to American agriculture, and also provide more imaginative inducements for American industry to invest in the Basin.

RICHARD T. SCHULZE.

ADDITIONAL VIEWS OF THE HONORABLE JOHN H. ROUSSELOT, DON BAILEY, RICHARD A. GEPHARDT, WYCHE FOWLER, JR., AND THOMAS J. DOWNEY

While I support this legislation, I would like to express my concern about the negative consequences it will have with regard to the tuna industry in the United States. An amendment was offered in the committee that would have exempted canned tuna from the duty-free treatment under the provision of the Carribean Basin Economy Recovery Act ("CBETA"). The Amendment received substantial support by the Committee and failed by a small margin—the final vote was 15–18. I supported this amendment and believe it would have greatly improved this legislation.

The American tuna industry provides 40,000 to 50,000 jobs in the canneries, fishing vessels and related support industries. This industry is severly depressed with plant closures and layoffs attributable to increasing levels of foreign processed tuna. The International Trade Commission has consistently found the tuna industry to be "import sensitive". While the tariff on oil packed tuna is 35%, brine pack tuna is 6%—until imports exceed 20% of the previous year's domestic production when the tariff then is raised to 12.5%. Even with this tariff protection, tuna imports by foreign processors are rising rapidly.

Removing the existing tariffs on processed tuna will jeopardize the future existence of tuna packing operations in some of our home districts which include the U.S. tuna fleet's home port—San Diego, California. This one-way free trade zone for tuna would signal the end of the U.S. tuna industry as we know it today.

Opening the gates for less expensive tuna being dumped in the United States will provide a substitute for proteins such as beef and poultry. These industries have recently had difficulties themselves, and the outlook is little increase, if any, in beef consumption. So, the gain in availability of tuna from dumping will negatively affect the beef and poultry industries even more. It is extremely poor agricultural policy to open the floodgates for a stream of inexpensive tuna from the Carribean.

Jobs? We have over 30,000 American jobs at risk here. Most of these employees have relatively few other job skills; they often are minorities, live in geographic areas already suffering high unemployment. These jobs are located principally in Puerto Rico, American Samoa, Hawaii, Guam, California, Oregon, and Washington. Unemployment in Puerto Rico is estimated to be over 25%. In American Samoa, the tuna industry is the largest single private employer.

Failure of this amendment to pass will affect farmers in 26 states who raise soybeans for the oil used in the tuna industry.

Steel can manufacturers, fishnet manufacturers, labelers, corrugated box board makers, electronics companies, and shippers will be negatively affected.

The Carribean Basin Economic Recovery Act will give away the U.S tuna market to foreign competitors. It will lose jobs. It will hurt the United States economy at a time when we are struggling to break out of a recession.

Again, I support the Carribean Basin Initiative embodied in this bill and will vote for this bill. Yet, failure to exempt tuna from duty-free treatment could be very harmful and I hope we carefully monitor any additional imports that might pose a threat to this important industry.

JOHN H. ROUSSELOT.
DON BAILEY.
DICK GEPHARDT.
WYCHE FOWLER, JR.
TOM DOWNEY.

DISSENTING VIEWS OF HON. DON J. PEASE

Although I did not support this bill in full committee and I do not intend to support it should it reach the House Floor for a vote, I do not oppose it happily.

As a former member of the House Foreign Affairs Committee, I know how important the welfare and productivity of the countries of Central America are to the United States. Economic development is desperately needed in this volatile area of the world to create not only jobs but to provide something as essential as food for the people living there.

The Caribbean Basin Economic Recovery Act could provide the vehicle for self-help. The bill's one-way free trade provision could attract capital investment to these struggling countries and could stimulate expansion of existing industries.

In addition, I believe H.R. 7397 is beneficial to our own foreign policy interests if it serves as a symbol of the United States' commitment to the people of the Caribbean and their future growth.

My problem is not with the concept of trade concessions to this area nor with specific language in the trade title. Rather my problem is with the intolerable level of unemployment we are experiencing in the United States and in my district. The unemployment rate in Ohio is 14.2 percent, 10.8 percent in the United States, and in the largest county in my district it is 24 percent. I simply cannot go back to my district, which is suffering greatly from an erosion of its industrial base and the permanent loss of many jobs, and tell 50,000 jobless people that I supported legislation which might cause further job loss in our country and might encourage American plants to relocate in the Caribbean.

My problem is also with this Administration which has told people if they are unhappy with having no job they can vote with their feet. This Administration is heartless in its willful negligence toward the unemployed, jobs program and job training. For example, at a recent Subcommittee on Public Assistance and Unemployment Compensation hearing on proposed legislation extending supplemental unemployment benefits, the Administration refused a request to present its views. At a hearing this year in the Trade Subcommittee on my bill to create job retraining opportunities for workers displaced through imports, the Administration appeared to strongly record its opposition to the proposed program. Further, it is rumored at the time of this writing that the Administration may veto the jobs bill being written in the House.

The Administration cannot have it both ways. In my view, it is unconscionable to promote a trade and tax concession bill that will make it easier for companies in the Caribbean to compete against American workers and simultaneously refuse essential job training for those workers and their families who are struggling to find jobs and desperately need new skills.

DON J. PEASE.

DISSENTING VIEWS OF HON. DON BAILEY

I dissent from the Ways and Means Committee decision of Thursday, December 8, 1982 in the following particulars:

1. The Caribbean Basin Initiative, hereinafter CBI, will not respond to the foreign policy needs of the United States. It is common knowledge and agreed upon by all, that the major problem faced in the CBI countries is the export of wealth generated there to other countries, by and large because of instability in the region. Most of this indigenous prosperity finds its way to foreign banks and investments which are judged safer by those from these countries who would hopefully make the reinvestment decisions there that they have so far avoided doing.

CBI in no way addresses this most vital problem. We could have accomplished much more through some sort of domestic investment incentive, coupled perhaps with a program of underwriting entrepreneurial risk and at the same time saved a great deal of money. In that context, we also would have been able to do more with another vital need in these nations, and that is the necessity of encouraging infrastructure development. In short, there simply is not enough knowledge in the region of how to do business or how to develop a modern business enterprise. Additionally, this approach would have been far superior for political reasons. It's quite conceivable that if the CBI does act as a funnel with the minimum domestic content rules becoming a mechanism exploited by numerous third country producers, then long before the life of the bill, i.e. twelve years, political opposition in the United States will arise that will once more cause a change of events with disastrous consequences.

2. The domestic content requirements are not high enough and even if raised to GSP level, will not benefit people in the region sufficiently. Indeed, very few members of Congress or the public are aware that under the General System of Preferences, a number of import-sensitive items vital to American security are included in that system, but that under CBI these items are duty free. Under CBI there will be no, and I emphasize no, import sensitive items. Therefore, those sectors of the American economy judged vital for our wellbeing and most vulnerable to import penetration and abuse will not have the necessary protection we need under the CBI. The CBI will, in effect, unwittingly create a soft underbelly which, given the measure's long term of existence, will certainly be exploited to the detriment of American national defense requirements. It will thereby cause economic harm here that in turn may well cause a political reaction to reject these measures at an unprecipitous time in the future. This will in turn cause embarassment to our country and harm to our foreign relations. The measure is, in short, politically unwise.

3. The CBI will cause structural unemployment problems in the United States and in Puerto Rico, to the detriment of American citizens who badly need jobs and also have a right to maintain their standard of living. The bill contains no balance or offsetting provisions to deal with the structural unemployment problems caused by the bill. Additionally, the Administration as a matter of overt policy has discouraged or eliminated many problems designed to alleviate the impact of structural unemployment in the United States and to our insular possessions. The best example is trade adjustment assistance which the Administration desired to eliminate and which has been cut to a very, very low level and which would have been eliminated had it not been for Ways and Means Committee actions. Lastly, the bill violates the tenets of free enterprise which on grounds of comparative advantage would suggest that investments in any country follow the development of indigenous industries as opposed to short-run encouragement that can waste vital resources when policies change over which these countries have no control. Because the CBI does not address these vital problems, it is at best poor legislation, poorly structured, improperly directed, albeit well intentioned.

Lastly, I strongly dissent from the committee's decision because this legislation is potentially harmful to our insular possesions. The first and most important thing that the United States of America should consider in the Caribbean is Puerto Rico and the Virgin Islands. As part of our country, everyone should understand that they should come first. As our window on the Caribbean they are the best example of our successes and should be the first consideration to which we give our thoughts and actions.

During hearings by the Trade Subcommittee on this legislation, evidence was presented by Puerto Rico about the need for increased protection for the rum industry located in Puerto Rico and the U.S. Virgin Islands (beyond what was included in the legislation as submitted by the Administration), and for the protection of the domestic tuna industry.

In recognition of the potential problem for the rum industry, the Subcommittee approved a tariff rate quota system that would be triggered by a decrease in the respective domestic market share of rum produced in Puerto Rico or the Virgin Islands. The quota would have allowed CBI countries to ship duty-free into the U.S. more rum than they have ever exported to the U.S. and was also subject to yearly increases at the discretion of the President. The deletion of that amendment by the full Committee will increase the danger to an industry that provides substantial revenues to the territories. In Puerto Rico that figure is close to $250 million a year and represents approximately 11 percent of its operating budget and ind the U.S. Virgin Islands it amounts up to $30 million.

The tuna industry is concentrated in four areas of the United States: Puerto Rico, Southern California, Hawaii and American Samoa. Puerto Rico alone accounts for 40 percent of the production of the total domestic production of tuna. Approximately 13,000 workers are directly or indirectly dependent on the tuna industry for their livelihood in Puerto Rico. Tuna canning is a highly mobile industry that would take advantage of the elimination of duties to move their operations to CBI nations where our laws and regula-

tions designed to protect the American worker are not in force. Representatives of the tuna industry have publicly stated that the removal of tariffs and duties may force them to move from the U.S. to CBI nations to remain competitive.

There is the mistaken notion that the extension of the accelerated cost recovery system and the investment tax credit to firms doing business in Puerto Rico and the Virgin Islands was included in the original legislation as a quid pro quo for the extension of the investment tax credit to the Caribbean nations. This is just not true.

In his testimony before our Committee during the mark-up on this bill Assistant Secretary of the Treasury John Chapoton explicitly stated that this was included to make up for the unintentional yet deleterious effects upon Puerto Rico engendered by the passage of the 1981 Economic Recovery Tax Act. By failing to include this provision in the legislation we continue to allow Puerto Rico to be at a disadvantage by not having these two tax incentives that were extended to businesses in the U.S. mainland in 1981. This is unconscionable in a jurisdiction where unemployment is now at 22.8 percent.

I hope the Administration keeps its promise of backing the extension of this tax provision to Puerto Rico and the Virgin Islands as soon as this can be accomplished in the next Congress.

Moreover, the immediate impact of the extension of the Convention Tax Credit to the Nations of the Caribbean Basin is to put them in direct competition with our 50 states and territories for the many small and medium-sized conventions which now travel annually to our southern states and Puerto Rico and the Virgin Islands.

This is most harmful to Puerto Rico and the Virgin Islands, two jurisdictions which depend heavily on tourism. Their capacity for attracting large conventions is limited; in Puerto Rico, for example, the largest convention possible is 5,000 people; therefore, small conventions are the backbone of this industry. Statistics bear this out. From 1977 to 1981 the percentage increase in conventions traveling to Puerto Rico rose by 400 percent, but the increase in the number of people attending those conventions rose by less than 50 percent. Thus, it can be seen that Puerto Rico attracts mainly small conventions. Given this, it is reasonable to assume that other Caribbean nations stand a good chance to take a large portion of this business away from either Puerto Rico or the Virgin Islands.

In closing, let me add that this provision was not in the original legislation, was never discussed in hearings, and was presented at such a late date as to preclude any rational debate.

I hope that the legislation will prove helpful to the Caribbean nations without undue harm to American citizens. Unfortunately, I don't believe that will be the case, as I have said. We must all look carefully at the initial results and be prepared to take a second look at what we have done.

DON BAILEY.

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